

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ATMEL CORPORATION, a Delaware)	Case No. C 06-02138 CW (EDL)
corporation; ATMEL SWITZERLAND, a)	
corporation; ATMEL FRANCE, a corporation;)	ORDER ON ATMEL'S MOTIONS TO
and ATMEL SARL, a corporation,)	COMPEL
)	
Plaintiffs,)	
)	
v.)	
)	
AUTHENTEC, INC., a Delaware corporation,)	
)	
Defendant)	
)	

This matter comes before the Court on the Motions of Plaintiffs Atmel Corporation, Atmel Switzerland, Atmel France and Atmel SARL (collectively "Atmel") to (1) compel production of source code and technical documents in hard copy pursuant to the Scheduling order, Patent Local Rules and February 23, 2007 Order and for evidentiary and monetary sanctions pursuant to Rule 37(b)(2) (Dkt. No. 140); and (2) compel production of financial documents and information (Dkt. No. 142). The Court, having reviewed and considered the parties' respective briefing and argument in this matter and all relevant factual statements therein, hereby ORDERS as follows:

1. Atmel's motions to compel are GRANTED-IN-PART as follows:

a. Defendant AuthenTec, Inc. ("AuthenTec") shall produce in hard copy format all printable files on the review computer. Atmel shall bear the cost of such

1 production. The provisions of the Protective Order in this case shall apply to
2 these documents, with the additional requirements for the source code as
3 agreed by the parties: (i) Atmel shall maintain a log of all persons who view
4 the source code; (ii) for any copy made from the hard copy, Atmel shall label
5 the copy with a number and maintain a log of all copies created and of all
6 persons with access to each copy; (iii) the source code, in any format, shall not
7 be distributed via e-mail but only sent via courier; and (iv) at the conclusion of
8 this litigation, all copies of these documents shall be collected and accounted
9 for, and then either returned to AuthenTec or destroyed, at AuthenTec's
10 option.

11 b. AuthenTec shall conduct a reasonable (but not exhaustive) investigation to
12 determine what form the source code as collected in the fall of 2006 is kept
13 and whether the source code is usable. If the source code is not usable, the
14 parties are to meet and confer concerning how to proceed. The provisions of
15 the Protective Order in this case shall apply to these documents, with the
16 additional requirements for the source code as agreed by the parties: (i) Atmel
17 shall maintain a log of all persons who view the source code; (ii) for any copy
18 made from the hard copy, Atmel shall label the copy with a number and
19 maintain a log of all copies created and of all persons with access to each
20 copy; (iii) the source code, in any format, shall not be distributed via e-mail
21 but only sent via courier; and (iv) at the conclusion of this litigation, all copies
22 of these documents shall be collected and accounted for, and then either
23 returned to AuthenTec or destroyed, at AuthenTec's option.

24 c. AuthenTec shall produce all profit and loss statements, if any, that have not
25 been produced. If there are no statements that have not already been
26 produced, AuthenTec shall have the person most knowledgeable certify that
27 such documents have already been produced.
28

1 d. AuthenTec shall produce all agreements with its top five customers, if any,
2 that have not been produced. If there are no agreements that have not already
3 been produced, AuthenTec shall have the person most knowledgeable certify
4 that such documents have already been produced.

5 e. AuthenTec shall produce all requests for proposals and requests for quotes
6 and responses thereto received from or made to its top five customers, if any,
7 that have not been produced. If there are no requests or responses that have
8 not already been produced, AuthenTec shall have the person most
9 knowledgeable certify that such documents have already been produced.

10 2. Atmel's motions to compel are DENIED to the extent not granted above.

11 3. Authentec's motion for administrative relief for leave to file a sur-reply is denied.

12 Dated: November 8, 2007

